IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

FRIDAY, THE 8TH JUNE 2007 / 18TH JYAISHTA 1929

Crl.Rev.Pet.No. 2229 of 2007()

(AGAINST THE ORDER NO.S9/55787/2006 DATED 1/06/2007 OF THE DISTRICT COLLECTOR AND DISTRICT MAGISTRATE, TRIVANDRUM)

REVN. PETITIONER:

M/S.RELIANCE COMMUNICATIONS LIMITED A AND P.ARCADE, SAHODARAN AYYAPPAN ROAD, KADAVANTHARA, KOCHI, REPRESENTED BY ITS CIRCLE MANAGER (LEGAL) AND AUTHORISED SIGNATORY V.K.SAJITH.

BY ADV. SRI.V.G.ARUN
SRI.T.R.HARIKUMAR

RESPONDENTS:

1. **THE DISTRICT MAGISTRATE (DISTRICT COLLECTOR) TRIVANDRUM).**
2. **STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.**
3. **K.SADANANDAN, ANAND SREE, TC.9/975(1), PLRA-F.40, PANICKER'S LANE, SASTHAMANGALAM, TRIVANDRUM.**

BY ADV.SRI. G.S.REGHUNATH for R3
BY PUBLIC PROSECUTOR SRI. AMJAD ALI

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 08/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R. UDAYABHANU, J

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CRL. R.P. NO. 2229 OF 2007

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Dated this the 8th day of June, 2007.

O R D E R

The revision petitioner has sought for setting aside the order of the District Magistrate issued under Section 138 Cr.P.C specifically on the ground that the order is vitiated as the District Magistrate has violated the mandatory stipulations under SEction 138 Cr.P.C.

2. On a perusal of the order, I find that the District Magistrate has not complied with the provision in 138(1) Cr.P.C. that he shall take evidence in the matter as in a summons case. The order only mentions that the case was posted for hearing and both the parties were heard.

3. In the circumstances, I find that the order cannot be sustained. The same is set aside. The District Magistrate is directed to dispose of the case on merits after taking the evidence as contemplated under Section 138(1) Cr.P.C. The counsel for the respondent has pressed for a time limit to be

fixed pointing out that the life of the residents of the the locality is miserable on account of the continuous working of the generator. In the circumstances, the District Magistrate is directed to dispose of the matter at the earliest at any rate within one month from the date of receipt of a copy of this order.

The Crl.R.P is disposed of accordingly.

K.R. UDAYABHANU, JUDGE.

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